CONTRACTS—LEGALITY OF A CONTRACT TO RAISE A BID AT AN AUCTION SALE.—Defendant agreed that if the plaintiff would raise the bid on certain land put up at auction from $10,250 to $11,275 he would give the plaintiff one half of the raised bids. Plaintiff raised the bid to $11,275. The land was knocked down to the plaintiff for $11,830. Plaintiff brings this action to recover one half of the difference between $11,275 and $11,830. *Held,* as plaintiff had broken the contract by selling the bid, he could not recover. *Jennings* v. *Jennings* (N. C., 1921), 108 S. E. 340.

The usual definition of a puffer is the one given in *Peck* v. *List,* 23 W. Va. 338, where it is said that a puffer is "one who, without having any intention to purchase, is employed by the vendor at an auction to raise the price by fictitious bids, thereby increasing competition among bidders, while he himself is secured from risk by a secret understanding with the vendor that he shall not be bound by his bids." The plaintiff in the principal case made the bid with the intention of buying. This, however, should not prevent the plaintiff from being regarded as a puffer, if the bid was made because of the inducement held out to him by the vendor, since the implied warranty to the public that the price would not be screwed up by secret machinery was broken. Whether the employment of a puffer by the vendor at an auction sale is a fraud or not is in conflict. A majority of the courts in this country hold that the use of a puffer, when no reservations are made, is a fraud upon the public, because the purchaser at such a sale is entitled to buy at an under value if he can do so, and that such a contrivance by way of puffing deprives him of this right. *Peck* v. *List, supra;* 131 A. S. R. 488, and cases there cited. The minority opinion is that the vendor may employ one puffer if he does it for the purpose of preventing a sale at a sacrifice and not as a mere pretext for enhancing the price above the true value. *Reynolds* v. *Dechaums,* 24 Tex. 174; *Davis* v. *Petway,* 3 Head (Tenn.) 667. This conflict in the American decisions is due to the different rules which were applied by the courts of equity and of law in England. See 131 A. S. R. 488. The agreement in the principal case was a fraud, according to the majority rule, as a matter of law; while according to the minority rule it was a question for the jury to say whether or not the agreement was to prevent a sacrifice of the property put up. In both jurisdictions, however, if a fraud had been worked upon the public the plaintiff could not recover a share of the raised bids, because the contract, being for the purpose of defrauding the purchaser and against public policy, was illegal and unenforceable. *Dealey* v. *East San Mateo Land Co.,* 21 Cal. App. 39; *Walker* v. *Nightingale,* 3 Bro. P. C. 263. The conclusion at which the court in the principal case arrived seems sound; but the plaintiff might have been denied relief on the ground that he was a puffer, and as such could not recover on the contract.

CONTRACTS—MUTUAL ASSENT—EFFECT OF AN UNDERSTANDING THAT AN ORAL AGREEMENT IS TO BE REDUCED TO WRITING.—Through their respective brokers, the plaintiff and defendant entered into an oral agreement for the chartering of plaintiff's vessel. The defendant refused to execute a formal